

EXHIBIT #28
TO
DEYOUNG DECLARATION

U.S. Department of Homeland Security
Washington, DC 20229



U.S. Customs and
Border Protection

DIS-2-02 RR:RDL:FAPL
H008395 JEH

Catherine K. Ronis
WilmerHale
1875 Pennsylvania Avenue
Washington, D.C. 2006

APR 2 - 2007

Dear Ms. Ronis:

This correspondence is written in response to your Freedom of Information Act (FOIA) appeal dated July 13, 2006, in which you appeal the response to your two (2) FOIA requests dated April 25, 2006. Your initial FOIA requests, directed to the Office of Anti-Terrorism (OAT), Customs and Border Protection (CBP) sought, respectively, the disclosure of two (2) different categories of records pertaining to "detainees secretly transferred or held by the United States Government." One FOIA request sought records concerning "Detainees," including "Ghost Detainees/Prisoners," "Unregistered Detainees/Prisoners," and "CIA Detainees/Prisoners." The second FOIA request sought "any memorandum of understanding or other record reflecting an agreement or proposed agreement between agencies or between any agency and any subdivision or official, concerning the handling of ghost or unregistered detainees," "any records reflecting a policy, whether formal or informal, about the reception, detention, or movement of unregistered or ghost detainees," and, "any memorandum of understanding, or other record reflecting an agreement between any agencies, or between any subdivision or official or any other agency, regarding the transfer of detainees from custody of one agency to that of another."

The FOIA appeal in issue is one of three (3) FOIA appeals that you filed concerning the responses that you received to your FOIA requests. This appeal is in response to the replies that you received from the Executive Director, Office of Anti-Terrorism (OAT), Customs and Border Protection (CBP).

The Executive Director, Office of Anti-Terrorism issued the responses to your initial FOIA requests. In response to both of your FOIA requests, you were informed that OAT does not have documents responsive to your requests, and that records of the type that you seek would not be reasonably expected to be located in OAT.

In response to your appeal, and the issue it raised concerning the adequacy of the search made by OAT, we alerted that OAT of your concerns. We have been

informed by OAT that it reviewed its search for responsive records and has determined that the search was adequate. OAT advised that they conducted a thorough search of all office files and databases, which included all office hard drives, network hard drives, emails, internal tracking systems, as well as hard copy files and documents, within the office of Antiterrorism and the Commissioner's Situation Room. Their search was guided by the parameters of your requests (Ghost Detainees/Prisoners, Unregistered Detainees/Prisoners, CIA Detainees/Prisoners and other Government Agency Detainees, and (1) Memoranda of Understanding regarding "off the record" detainees, (2) Department of Defense reporting, (3) Reports to Certain U.N. Committees, and (4) the Draft Convention on the Protection of All Persons from Enforced Disappearance). OAT asserts, that it made a good faith effort to locate responsive records, and that it did so in a manner that could reasonably be expected to produce the information requested.

In the event that you are dissatisfied with the disposition of your appeal, you may obtain judicial review of this decision pursuant to the provisions of 5 U.S.C. § 552(a)(4)(B) in the United States District Court in the District in which your client resides, in the District where the agency records are situated, or in the United States District Court for the District of Columbia.

Sincerely,



Shari Suzuki
Chief, FOIA Appeals, Policy & Litigation Branch